

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PROPERTY AND CASUALTY INSURANCE
COMPANY OF HARTFORD, and
SENTINEL INSURANCE COMPANY, LTD.,

Plaintiffs,

-against -

TRINITY ASSOCIATES, LLC,
OSSINING T.B. FLATS, LLC,
JOHN B. SARACENO, and
JOHN V. SARACENO,

Defendants.

:
:
:
: Civil Action No: 19-cv-3810
:

: **STIPULATED FINAL JUDGMENT**
: **AND ORDER**
:
:
:
:
:
:
:
:

Plaintiffs Property and Casualty Insurance Company of Hartford and Sentinel Insurance Company, Ltd. (collectively, "Hartford") commenced this action on April 29, 2019, by filing the Complaint herein against defendants Trinity Associates, LLC ("Trinity"), Ossining T.B. Flats, LLC ("Ossining"), John B. Saraceno, and John V. Saraceno (collectively, "Defendants").¹ Defendants executed a Waiver of Service. The Parties, represented by the attorneys whose names appear hereafter, have agreed to settlement of this action without adjudication of any issue of fact or law.

THEREFORE, on the joint motion of Hartford and Defendants, it is hereby Ordered, Adjudged and Decreed as follows:

FINDINGS

1. This Court has jurisdiction based on diversity of citizenship, pursuant to 28 U.S.C. § 1332, because Plaintiff and Defendants do not share common state citizenship and the amount in controversy exceeds \$75,000, exclusive of costs and interest.

¹ Plaintiffs and Defendants are collectively referred to herein as "Parties."

2. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1391(a) and (c), insofar as Defendants are citizens of New York and residents of Westchester County.

3. The Complaint states a claim upon which relief may be granted against Defendants. Hartford's First Cause of Action sought rescission of the Hartford Policies. Hartford's Second Cause of Action sought declaratory judgment pursuant to 28 U.S.C. § 2201. Hartford's Third Cause of Action sought equitable reimbursement, indemnity and/or recoupment.

4. Hartford has sought a judgment declaring that Hartford has no duty to defend or indemnify Defendants in connection with an underlying lawsuit captioned *Mariah Hagan v. John B. Saraceno, et al.*, Index No. 68070/2017 (N.Y. Sup. Ct., Westchester Co.) (the "Hagan Action").

5. In addition, Hartford has sought an order granting rescission of the following liability insurance policies that were issued to Trinity or Ossining for the periods indicated:

- 16 SBA RV8816 (9/3/06-9/3/07);
- 16 SBA RV8816 (9/3/07-9/3/08);
- 16 SBA RV8816 (9/3/08-9/3/09);
- 16 SBA RV8816 (9/3/09-9/3/10);
- 16 SBA RV8816 (9/3/10-9/3/11);
- 16 SBA RV8816 (9/3/11-9/3/12);
- 16 SBA RV8816 (9/3/12-9/3/13);
- 16 SBA RV8816 (9/3/13-9/3/14);
- 16 SBA RV8816 (9/3/14-9/3/15);
- 16 SBA RV8816 (9/3/15-9/3/16);
- 16 SBA RV8816 (9/3/16-9/3/17);
- 16 SBA RV8816 (9/3/17-9/3/18);

- 16 SBA RV8816 (9/3/18-9/20/18);
- 16 SBA PP5396 (1/31/14-1/31/15);
- 16 SBA PP5396 (1/31/15-1/31/16); and
- 16 SBA PP5396 (1/31/16-1/16/17).

These policies are collectively referred to as the “Hartford Policies.” The Parties acknowledge and agree that the foregoing Hartford Policies do not provide Workers’ Compensation coverage.

6. The Parties have agreed to resolve all causes of action and claims asserted in this lawsuit in return for Hartford’s payment of \$20,058.65 (the “Settlement Sum”). The Settlement Sum represents the premiums paid by Defendants to purchase the Hartford Policies. Defendants have agreed that in exchange for the Settlement Sum, to entry of final judgment ordering the Hartford Policies rescinded and void *ab initio*.

7. Upon entry of this Stipulated Judgment and Order (“Order”), Defendants have also agreed to waive and abandon all claims against Hartford and each of their past, present and future employees, agents, representatives, parent, subsidiary and affiliated corporations, joint venturers, predecessors, successors, and assigns with respect to the Hartford Policies, and to withdraw any tender of claims seeking coverage under the Hartford Policies for the Hagan Action and/or any other claims or actions, known or unknown.

8. The Parties agree to the entry of this Order, without adjudication of any issue of fact or law, to settle and resolve all matters in dispute.

9. The Parties have entered into this Order freely and for the purposes of settling this case and permitting entry of final judgment, and acknowledge that they have read the provisions of this Order and are prepared to abide by them.

10. The Parties hereby waive all rights to appeal or otherwise challenge or contest the validity of this Order.

ORDER

IT IS HEREBY ORDERED that judgment is entered in Plaintiffs' favor granting rescission of the Hartford Policies and declaring that the Hartford Policies are void *ab initio*;

IT IS FURTHER ORDERED that judgment is entered in Plaintiff's favor declaring that Hartford has no obligation to defend or indemnify Trinity, Ossining and/or any other insureds thereunder in connection with the Hagan Action;

IT IS FURTHER ORDERED that Hartford shall make payment of the Settlement Sum of \$20,058.65 to Defendants within thirty (30) days after entry of this Order;

IT IS FURTHER ORDERED that nothing contained in this Order shall be deemed to affect any Workers' Compensation coverage afforded to Defendants;

IT IS FURTHER ORDERED that the Parties agree to bear their own costs and attorney's fees incurred in connection with this lawsuit;

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for the purpose of enabling the Parties to apply to the Court at any time for such further orders and directives as may be necessary or appropriate for the interpretation or modification of this Order, or for the enforcement of compliance therewith.

Dated: February 11, 2020

Stipulated and Agreed to:

**MENZ BONNER KOMAR &
KOENIGSBERG LLP**

PISCIONERE & NEMAROW, P.C.

By: 

Michael S. Komar

By: 

Tony Piscionere

One North Lexington Avenue, Suite 1550
White Plains, New York 10601
(914) 949-0222
*Attorneys for Plaintiff Property and Casualty
Insurance Company of Hartford and Sentinel
Insurance Company, Ltd.*

363 Boston Post Road
Rye, New York
(914) 835-6900
*Attorneys for Defendants Trinity
Associates, LLC, Ossining T.B. Flats,
LLC, John B. Saraceno, and John V.
Saraceno*

SO ORDERED this 11th day of February, 2020.



HONORABLE CATHY SEIBEL
UNITED STATES DISTRICT JUDGE

The Clerk shall close the case.